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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------------|------------------|
| 09/801,106 | 02/28/2001 | Koji Egashira | 33082M072 | 8270 |
| 7590 12/04/2003 SMITH, GAMBRELL & RUSSELL, LLP 1850 M Street, N.W., Suite 800 Washington, DC 20036 | | | EXAMINER PERRIN, JOSEPH L | |
| | | | ART UNIT | PAPER NUMBER |

1746

DATE MAILED: 12/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action**Application No.**

09/801,106

Applicant(s)

EGASHIRA ET AL.

Examiner

Joseph L. Perrin, Ph.D.

Art Unit

1746

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Continuation of 10. Other: Applicant's arguments have been fully considered but are not found persuasive for at least reasons of record, and stated below for applicant's convenience:

Re claim 10, applicant argues that Thompson "fails to inherently or explicitly disclose that the 'nozzle is formed so as to eject the processing liquid against each processing surface of the substrates so that a width of the plane-ejected processing liquid is generally equal to the diameter of the substrate on the processing surface'". This is not persuasive because how the nozzle operates relative to movable items to be cleaned (e.g. a substrate of variable possible sizes) are not considered structural limitations of claimed apparatus and are considered intended use and given little patentable weight. Moreover, the position is taken that any nozzle confined in such a processing container as claimed by applicant would read on applicant's claimed nozzle since the ratio of spray width relative to substrate diameter is wholly dependent on the size of the substrate to be cleaned which can significantly vary. This is also related to intended use. Moreover, as cited in the previous Office action, Thompson teaches that it is known to utilize fan-shaped nozzles (see, for instance, col. 6 lines 12-14), which are construed to be same of applicant, as further claimed in dependent claim 9. Applicant's argument of the number of nozzles of Thompson relative to the number of wafers to be processed is still not persuasive for at least reasons previously cited. Applicant's claims are directed to the apparatus, not the method of using the apparatus.

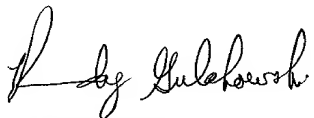
Re claim 11, applicant argues that the prior art does not show nozzles that are inclined. This is not persuasive because Thompson discloses inclined nozzles, for instance, in Figure 4. Moreover, since the inclination of the nozzles is dependent on placement of the wafers to be cleaned (e.g. intended use), this limitation is given little patentable weight.

Re claim 18, applicant argues that Thompson "fails to inherently or explicitly disclose 'an ejecting orifice formed on an inner face of the processing container so as to face the circular plate, for supplying a processing liquid to the circular plate's surface facing the inner surface of the processing container.'" This is not persuasive because Thompson discloses an ejecting orifice on an inner face of the processing container (see, for instance, Figures 1-4). Moreover, as previously noted, applicant is relying on intended use, e.g. how the nozzle is considered intended use and given little patentable weight.

Re claim 21, applicant argues that Thompson "fails to disclose 'the ejecting orifices are located relative to the position of the substrates so that in plan view the ejecting orifices do not overlap with the substrates'". This is not persuasive because, as repeated from above, applicant is relying on intended use, i.e. how the ejecting orifices and substrates to be cleaned are located relative to each other when cleaning the substrates. Since the substrates may be oriented and positioned in multiple locations this limitation is given little patentable weight relative to the structure of the apparatus as claimed.

Re claim 24, applicant's arguments are not persuasive for at least reasons set forth above for claim 21.

Re dependent claims 14 & 17, applicant argues these claims are not obvious because claim 10 of which they depend is not anticipated or obvious. This is not persuasive because claim 10 is anticipated as noted above..


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